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10/037,841	01/07/2002	Thomas E. Lenkman	TEM-20	6719

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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,841

Applicant(s)

LENKMAN, THOMAS E.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-25 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 7 and 13 are objected to because of the following informalities: The wording of the first line of claims 7 and 13 is unclear in its entirety. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 9-14 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, neither the Specification nor Drawings disclosed the location or how the battery charger, battery charger controls and indicators, air compressor and associated electrical wiring and pneumatic plumbing operated.

Regarding claim 20, the Specification does not disclose how the two buttons of the push button control allow for attaching and detaching the device and to cause the unit to lift one end of the device to moved.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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5. **Claims 2, 3, 8, 15-21 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The phrase “two castering support wheels” is vague and indefinite because “two castering support wheels” was previously set forth in claim 4, therefore, it is unclear whether claim 8 now sets forth another separate set of the castering support wheels, or was restating the castering support wheels previously set forth. Regarding claim 15, the phrase “a handle” is vague and indefinite because it also has been previously set forth in claim 4.

Regarding claim 16, the phrase “control means” is indefinite because Examiner is unsure whether this “control means” is the same component as the “means for controlling the assembly” set forth in claim 4.

Regarding claim 17, the phrase “control means” is indefinite because Examiner is again unsure whether this “control means” is the same component as in claims 4 and 16.

Regarding claim 19, Applicant sets forth a “second joystick”, however claims at least two separate joysticks, thus it is unclear whether this second joystick is included in the at least two separate joysticks, or is an additional joystick.

6. Claim 2 recites the limitation "the device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 3 recites the limitation "the device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 8 recites the limitation "the device" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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9. Claim 15 recites the limitation "said assembly unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 20 recites the limitations "the device" and "the unit" in line 3. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 21 recites the limitation "said device " in line 2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 24 recites the limitation "all components" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Shields et al. (US Patent 3,942,823). Shields et al. discloses a utility transport comprising a self-propelled transport assembly (14) and a receiver (50), attaching means (Figs. 6-8) to removably attach to the device which is to be moved; wherein the attaching means which may be bolted to said device, and may be folded out of the way when not in use; and means to raise and lower the motor and drive wheel units (26), a handle (22) which allows a user to move said assembly unit exclusive of its electric motors, means for controlling the assembly, a releasable hitch (Figs. 7-8) and an at least two-piece articulated frame comprising a vertical and a lower frame (Figs. 1-8).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 4-5, 8-9, 15 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields et al. (US Patent 3,942,823) in view of Otterson et al. (US Patent 6,244,366 B1).** Shields et al. discloses a utility transport as set forth above, but does not disclose two motor and drive wheel units, at least two castoring support wheels and a housing. Otterson et al. discloses a utility transport having two motor and drive wheel units (See Fig. 2), a castoring wheel support and a housing (18). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the utility transport disclosed in Shields et al. with two motor and drive wheel units, two castoring support wheels which provide support for the unit when it is not moving said device and a housing as taught by Otterson et al. The motivation for doing so would have been to make the utility transport more stable by providing four wheels and having two drive wheels that can be controlled independently to provide steering for the transport.

Regarding claim 5, Examiner takes Official Notice that it is notoriously old and well known that electric motors are variable speed and reversible.

Regarding claim 9, Otterson et al. discloses a battery (32) and the battery charger, controls and indicators and associated electrical wiring is inherent.

17. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shields et al. (US Patent 3,942,823) in view of Otterson et al. (US Patent 6,244,366 B1) as applied to claims 1, 4 and 23 above, and further in view of Schultz (US Patent 4,598,797). Shields et al. and Otterson et al. do not disclose the lower frame being free to move up and down on said vertical frame in order to lift said assembly. Schultz discloses a utility transport having a lower frame which is free to move up and down on said vertical frame in order to lift said assembly (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to allow the lower frame disclosed in the combination of Shields et al. and Otterson et al. to move up and down on the vertical frame as taught by Schultz. The motivation for doing so would have been to allow the lower frame to lift up the device being transported.

18. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields et al. (US Patent 3,942,823) in view of Otterson et al. (US Patent 6,244,366 B1) as applied to claims 1 and 4 above, and further in view of Inman (US Patent 4,287,959). Shields et al. and Otterson et al. do not teach control means comprising two separate joystick units to control the speed, direction and forward or reverse motion of the unit. Inman discloses two joystick units (See Fig. 1) to control the speed, direction and forward or reverse motion of the unit. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the transport disclosed in Shields et al. with two joystick units to control the unit as taught by Inman. The motivation for doing so would have been to allow the user to precisely control and operate the transport.

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Regarding claim 18, Examiner takes Official Notice that it is notoriously old and well known to provide control means to allow very small incremental motion to properly move heavy equipment.

Allowable Subject Matter

19. Claims 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Drawings

20. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed limitations in claims 9-14 relating to the batteries, battery charger, battery charger controls and indicators, air compressor and associated electrical wiring and pneumatic plumbing must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Conclusion

21. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

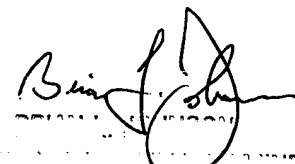
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver
Examiner
Art Unit 3618

JTS

JAS


SUPERVISOR
TECHNICAL STAFF
9/30/03